

Approved For Release 2002/05/06 : CIA-RDP78-03721A000300010005-1

Approved For Release 2002/05/06 : CIA-RDP78-03721A000300010005-1

SUPPLEMENTARY INFORMATION

TAB 6

TAB

- 6-A Comparative Costs of Retaining Employees after Five Years of Service to Permit Them to Obtain Additional Service Up to Ten Years
- 6-B Involuntary Separations in Category of Personnel Potentially Eligible for Proposed Retirement System
- 6-C Notes on Disability Retirements
- 6-D Cost Estimates

NOTES ON SECTION 201(c)

NON-REVIEWABILITY OF DETERMINATIONS

Section 10 of the Administrative Procedure Act provides that except insofar as (1) statutes preclude judicial review or (2) agency action is by law committed to agency discretion, final agency action shall be subject to judicial review.¹

To preclude the possibility of unauthorized disclosures, the Atomic Energy Act provides that where Restricted Data are involved determinations of the Commission will not be subject to judicial review.² Federal courts have upheld the constitutionality of this provision³ and in deference thereto have consistently refused to review such determinations.⁴

There are similar provisions in other acts, such as that found in the Foreign Claims Settlement Act of 1949,⁵ which specifically proscribe review and which have been honored by the courts.⁶

¹ 5 U.S.C. 1009(c)

² 42 U.S.C. 2231

³ Pauling v. McElroy, 164 F. Supp. 390 (D.D.C. 1958)

⁴ United Electrical, Radio & Machine Workers, CIO v. Lilienthal, 84 F. Supp. 640 (D.D.C. 1949)

⁵ 22 U.S.C. 1623(h)

⁶ DeVegvar v. Gilliland, 228 F. 2d 640 (D.C. Cir. 1955), cert. denied, 352 U.S. 994 (1956)

Indeed, such exceptions to the Administrative Procedure Act are most apt to be found in statutes like the Agency's proposed Retirement Act which provide pensions, bounties, and other claims against the public treasury.⁷ Thus, section 211(a) of the Veterans' Benefits Act of 1957 provides that ". . . the decisions of the Administrator on any question of law or fact concerning a claim for benefits or payments under any law administered by the Veterans' Administration shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such decision."⁸ Once again, the courts have held this constitutional⁹ and have respected its mandate.¹⁰

Similar provision is found in the Civil Service Retirement Act which provides that determinations of the Commission relating to questions of dependency and disability "shall be final and conclusive and shall not be subject to review."¹¹

⁷Jaffe, The Right to Judicial Review, 71 Harv. L. Rev. 769, 795 (1958)

⁸38 U. S. C. 211(a)

⁹Strong v United States, 155 F. Supp. 468 (D. Mass. 1957)

¹⁰Brewer v United States, 117 F. Supp. 842 (E.D. Tenn. 1954)

¹¹5 U. S. C. 2266(c)

25X9A2

Approved For Release 2002/05/06 : CIA-RDP78-03721A000300010005-1

Next 7 Page(s) In Document Exempt

Approved For Release 2002/05/06 : CIA-RDP78-03721A000300010005-1